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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Information presented by the National Human Rights Commission of Korea*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the National Human Rights Commission of Korea,** reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A"-status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

Annex

[English only]

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I. Introduction

1. The National Human Rights Commission of Korea (hereinafter "NHRCK") welcomes the positive assessment given in the report by the Special Rapporteur on the Situation of Human Rights Defenders (hereinafter "Special Rapporteur") on the efforts of the NHRCK for the consolidation of democracy in the Republic of Korea; its important role in the establishment of a solid human rights institutional framework; and for its commitment to public education campaigns. Also, the NHRCK sincerely recognizes the endeavor made by the Special Rapporteur to clearly understand the situation of human rights in the Republic of Korea as she considered the views of various groups and sectors of the society during her mission to the Republic of Korea.

2. However, the NHRCK is compelled to provide additional explanation on certain points as follows.

II. Position of the NHRCK on the Report of the Special Rapporteur

A. On the concern that the NHRCK lacks functional autonomy (Paragraph 57)

3. Functional autonomy of the NHRCK is ensured by the National Human Rights Commission Act. In fact, the NHRCK is carrying out its mandates without any intervention from the Government. However, if the Government cuts human and financial resources, the work of the NHRCK may be undermined. This requires certain measures to strengthen autonomy of the NHRCK.

4. Also, with regard to the appointment of the Chairperson, the National Human Rights Commission Act has been amended on 21 March 2012 to increase transparency of the appointment process of the Chairperson by requiring the Chairperson-appointee to stand before a hearing at the National Assembly. In fact, the current Chairperson was appointed after passing the confirmation hearing on 16 July 2012.

B. On the concern of excessive delays of processing complaints submitted by activists (Paragraph 59)

5. The report of the Special Rapporteur claimed that the NHRCK unduly dismissed or overruled complaints submitted by human rights defenders and excessively delayed giving decisions on such petitions. However, the NHRCK did not process the complaints by human rights defenders differently from other complaints in a discriminative manner. Rather, the NHRCK dismissed and rejected complaints fairly, only in strict accordance to the National Human Rights Commission Act. The delays in processing complaints were due to the annual increase in the number of complaints despite staff reduction by 21% (44 persons) in 2009. In 2010 in particular, collective complaints in relation to persons with disabilities were received as a result of the enforcement of the Anti-Discrimination against and Remedies for Persons with Disabilities Act, adding on to the issue of delayed processing of complaints. Nevertheless, consistent effort of the NHRCK has cut down the average duration of processing complaints to 96 days in 2013, from 135 days in 2012. (See Attachment)

C. On the concern of sit-in demonstration staged by disability-rights defenders (Paragraphs 60, 61)

6. The NHRCK recognizes the fact that it consistently made requests to the members of disability organizations and activists to leave its premises. However, such requests were made because they staged a sit-in protest in office areas of the NHRCK, severely obstructing the work of the NHRCK; because the protesters used physical power against several staff members of the NHRCK, incurring physical injuries; and because they inflicted damages to the property. In the duration of the sit-in protest, the NHRCK did not in any manner suspend electric power or heating, or restrict entry of food. In the case of heating, the NHRCK does not have any access to control the heating system, because the NHRCK has been renting only some parts of the building, with a separate and unrelated company being responsible for managing overall system of the building. In addition, it needs noting that partial restriction of the access of activists to prevent diffusion of the sit-in protest was inevitable, since staging a sit-in protest in the office area of a State organ is an illegal act.

7. According to the media, the late activist was a disabled person with first-degree brain lesion who on 2 December 2010 was participating in the sit-in protest at the NHRCK calling for enactment of the Act on Support for Activities of Persons with Disabilities when he was taken on an ambulance and was hospitalized, after which he was in recovery. However, he reportedly participated in another sit-in protest on the road in front of the National Assembly on 8 December 2010, when his health quickly deteriorated, resulting in pneumonia that led to his death on 2 January 2011.

III. Conclusion

8. In addition to the performances listed by the report, the NHRCK is active in the field of Information and Communications Technology (hereinafter "ICT") and Human Rights, publishing "the Report on ICT and Human Rights" in January 2013. Also, the NHRCK strives in the field of Business and Human Rights, publishing a final report on "the On-site Investigation on Human Rights Violations by Korean Firms in Foreign Operations and Research to Improve Legal Institutions" in October 2013, as well as the "Report on Business and Human Rights" in February 2013. Moreover, the NHRCK is active in the field of North Korean human rights, publishing the "Compilation of North Korean Human Rights Violation Cases" in March 2012 and holding "Seoul International Symposium on North Korean Human Rights" in April 2013.

9. The NHRCK welcomes the positive assessment by the Special Rapporteur on the efforts of the NHRCK in promoting and protecting human rights in the Republic of Korea. As recommended by the Special Rapporteur, the NHRCK will make unyielding efforts to strengthen its independence and enhance cooperation with human rights defenders. Also, the NHRCK will closely work with the International Human Rights System including the Special Rapporteur on the Situation of Human Rights Defenders.

Appendix

Additional Comments on Complaint Dismissal/Rejection

On "undue dismissal and rejection" of complaints

- Difficulties arise with increase in complaints while staff is being reduced or kept
- Unilateral Government measures to reduce the organization in 2009 led to reduction in the number of investigative officers while incoming and processing load of complaints increased every year. Nevertheless, by empowering investigative officers through professional training programs and actively recruiting investigators, functional capacity of the NHRCK has recovered the level before the staff reduction took place.

Despite recovery from staff reduction, steady increase in the number of complaints is adding on to the difficulties of processing complaints.

Table 1

Number of complaints Registered and Processed in the last Three Years

Year	Registered Complaints	Processed Complaints
2011	7,357	7,093
2012	9,582	9,587
2013	10,050	10,427

Table 2

Size of Staff, Investigative Officers, and Annual number of Processed Cases in the last Five Years

Categories	2008	2009	2010	2011	2012	2013
Staff (Investigators)	208(61)	164(43)	164(50)	185(49)	187(66)	188(65)
Processed Cases	6,466	6,788	8,393	7,093	9,587	10,427

Matters subject to investigation by the NHRCK are limited by legislation. Even if a case is within the purview of the NHRCK, rate of dismissal and rejection is high due to difficulties in finding evidence.

- However, cases that were withdrawn upon their resolution during investigation process and cases which does not require a separate remedy are also included in the number of cases dismissed or rejected.

Table 3

Decisions on Complaints (as of December 2013, unit: case)

Total	Recommendation	Dismissed (Resolved during Investigation)	Rejected (Resolved during Investigation)	Transferred/ Investigation Aborted	Total
75,840	4,503	22,238(1,993)	47,452(5,910)	1,647	75,840

Representative cases among cases dismissed or rejected which are resolved during investigation process

- The Dismissed Complaint on the Provision of Emergency Remedy to Kim Jinsook of the Korean Confederation of Trade Unions (KCTU)> concerns with Kim Jinsook who had been staging a 309-day sit-in protest in a tower crane No. 85 of Hanjin Heavy Industries Co. in the period from 6 January 2011 to 10 November 2011. On 28 June 2011, emergency remedy was requested from the NHRCK to recommend allowing entry of food, water, and undergarments. Immediately following such request, the NHRCK dispatched investigative officers to the site to conduct preliminary investigation and mediate between the Parties involved, resulting in the settlement of the case. Therefore, the Sub-Committee with relevant jurisdiction dismissed the case based on Article 39.1.3 (In the case it is deemed that any further remedy is not required) of the National Human Rights Commission Act.
- The Withdrawn Complaint on the Restriction imposed on entry of Water for protesters> involves Pastor C who was engaged in an one-man demonstration in front of the Daehan Gate at 09:00 on 14 June 2013 calling for reinstatement of laid-off workers at Ssangyong Motors Co. The police denied entry of water intended for the pastor, based on which an emergency remedy was requested to the NHRCK. The NHRCK dispatched investigative officers to the site to demand correction to the police, which led to allow entry of water. As such, the case was rejected as the petitioner withdrew his complaint upon settlement of the matter.
- The Withdrawn Complaint on the Provision of Emergency Remedy to the Citizens' Committee against the Construction of Miryang Power Transmission Tower> involves cases of human rights violations, including restraint by the police, during the process of moving the incense altar for late Ms. Y, who passed away after taking poison as a sign of protest against the construction of the power transmission tower, to Miryang City Hall at 15:00 on 27 January 2014. The complaint was submitted by the Secretary-General of the Citizens' Committee against the Construction of Miryang Power Transmission Tower, upon which the NHRCK dispatched investigative officers to the site on the day the complaint was received. As a result of preliminary investigations and mediation by the investigative officers, the petitioner and the police reached a settlement by agreeing to install the incense altar at a third location. With the matter settled, the petitioner retracted the complaint, based on which the case was withdrawn and therefore rejected.

Measures taken by the NHRCK on Human Rights Violations concerning cases of Jeju Naval Base and Miryang Power Transmission Tower

- The Case concerning Protest against the Construction of a Naval Base in Gangjung Village (Jeju Island> involves sending investigators to the site four times to monitor the situation regarding human rights violation on 1~3 September 2011. Upon two occasions of receiving requests for emergency remedy on 27 February 2012 and 7

March respectively, an investigator was dispatched to the site, reaching settlements on the case. The result of the investigation on the cases of human rights violations in Gangjung Village led to recognize 8 cases which revealed acts of human rights violations by the police. Accordingly, the NHRCK delivered Recommendations for Corrections, with a number of cases currently being under investigation.

- The Case concerning the Protests against the Construction of Miryang Power Transmission Tower> involves the NHRCK organizing and dispatching Human Rights Guardians on two occasions (20~21 May 2013 and 1~2 October 2013) to monitor acts of human rights violations on-site. Since 7 October 2013, on-site monitoring had been conducted for more than once or twice each week. Also, as of 12 February 2014, total of 16 cases of complaints have been received, based on which on-site investigation have been conducted 8 times. On the case of undue restriction of movement, the NHRCK delivered a statement based on Article 25 of the National Human Rights Commission Act. Moreover, cases of emergency remedy concerning protection of protesters at the construction site of the transmission tower, and the installation of incense altar for late Ms. Y who took poison during protest against construction of the tower have been resolved on-site. The NHRCK seeks to make a decision upon the allegations of human rights violations through swift investigation on cases that are currently being processed.